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April 15, 2010

The Honorable Jeff Bingaman
Chairman
The Honorable Lisa Murkowski
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Henry A. Waxman
Chairman
The Honorable Joe L. Barton
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Small Electric Motors*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Energy (DOE), entitled “Energy Conservation Program: Energy Conservation Standards for Small Electric Motors” (RIN: 1904-AB70). We received the rule on March 31, 2010. It was published in the *Federal Register* as a final rule on March 9, 2010, with a stated effective date of April 8, 2010. 75 Fed. Reg. 10,874.

The final rule establishes energy conservation standards for small electric motors. DOE has determined that these standards will result in significant conservation of energy and are technologically feasible and economically justified.

This final rule has a stated effective date of April 8, 2010. The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This rule was published in the *Federal Register* on March 9, 2010, and received on March 31, 2010. 74 Fed. Reg. 10,874. Therefore, this final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of DOE's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that, with the exception of the effective date, DOE complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Daniel Cohen
Assistant General Counsel for Legislation,
Regulation, and Energy Efficiency
Department of Energy

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF ENERGY
ENTITLED
"ENERGY CONSERVATION PROGRAM:
ENERGY CONSERVATION STANDARDS
FOR SMALL ELECTRIC MOTORS"
(RIN: 1904-AB70)

(i) Cost-benefit analysis

The Department of Energy (DOE) analyzed the costs and benefits of this final rule. DOE estimated that the annualized costs of this rule to be \$263.9 million per year at a 7-percent discount rate and \$263.7 million per year at a 3-percent discount rate. DOE estimated a range of possible values for the total monetary benefits of this final rule, depending on the discount rate, low versus high energy prices, and other factors. DOE's lowest estimate of the benefits of this rule is \$867.5 million and its highest estimate is \$1,358.8 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

DOE reviewed this final rule under the Act. DOE did not identify any company as a small business manufacturer based on the Small Business Administration's definition of a small business manufacturer for the small electric motor industry. DOE did not prepare a final regulatory analysis for this rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

DOE determined that this final rule will not contain an intergovernmental mandate, but would likely result in expenditures of \$100 million or more after 2015 for private sector commercial users of equipment with small electric motors. DOE estimated the annualized national impact of the rule to be between \$961 million and \$1,146 million in total benefits, \$264 million in costs, and between \$698 million and \$882 million in net benefits.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On November 24, 2009, DOE published a notice of proposed rulemaking, to which it received written comments and information. 74 Fed. Reg. 61,410. DOE also held a

public meeting on December 17, 2009, to hear oral comments on, and solicit information relevant to, the proposed rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

DOE determined that this final rule contains no information collection requirements under the Act.

Statutory authorization for the rule

DOE promulgated this rule under the authority of sections 6291 to 6317 of title 42 United States Code.

National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4370f

DOE found that the environmental effects associated with this final rule to be insignificant and therefore issued a Finding of No Significant Impact pursuant to the Act and associated regulations.

Treasury and General Government Appropriations Act, 1999,
5 U.S.C. § 601 note

DOE determined that this final rule will not have any impact on the autonomy or integrity of the family as an institution and concluded that it was not necessary to prepare a Family Policymaking Assessment.

Treasury and General Government Appropriations Act, 2001,
44 U.S.C. § 3516 note

DOE reviewed this final rule under the Office of Management and Budget (OMB) and DOE guidelines governing the dissemination of information to the public and concluded that the rule is consistent with applicable policies in those guidelines.

Executive Order No. 12,630 (Property Rights)

DOE determined that this final rule will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

Executive Order No. 12,866 (Regulatory Planning and Review)

DOE determined that this final rule is a significant regulatory action under the Order. OMB reviewed this rule.

Executive Order No. 12,988 (Civil Justice Reform)

The Order imposes on agencies the general duty to eliminate drafting errors and ambiguity, write regulations to minimize litigation, and provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. DOE stated that it completed the required review of this final rule and determined that it meets the relevant standards of the Order.

Executive Order No. 13,132 (Federalism)

DOE determined that this final rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power among the various levels of government.

Executive Order No. 13,211 (Energy Supply)

DOE determined that this final rule is not a significant energy action under the Order and, therefore, did not prepare a Statement of Energy Effects.